

ATTORNEY DOCKET NO. 01-VE22.40 CON1  
(PATENT)

### REMARKS

Applicants submit this Response to the Office Action mailed December 16, 2004. In this Response, Applicants have amended claims 1-3, 7, 10-12, 14 and 18-20 and added new dependent claims 21 – 26. No new matter has been added.

All claims stand rejected under 35 U.S.C. §103(a) as being unpatentable either over (i) Bauer et al., U.S. Patent No. 6,310,946 (“Bauer”) in view of Burg, U.S. Patent No. 6,219,413 (“Burg”) (claims 1-9 and 20) or (ii) U.S. Patent No. 6,078,581 of Shtivelman et al. (“Shtivelman”) in view of Bauer (claims 10-19). The rejections are respectfully traversed in view of the remarks that follow.

The present application describes embodiments directed to a system and method for providing telephone related services responsive to a status indicator provided by, for purposes of example only, an application server supporting such service. Rather than having this application server provide status updates using a special interface with a private operations data network (e.g., the CCIS signaling system), access to which raises many issues and concerns, the disclosed embodiments are responsive to special calling party numbers, e.g., invalid telephone number data, contained within the calling party field of a call set-up message. Using such a system and method for processing incoming calls to a subscriber specifically connected to, for example, the Internet, was the subject of parent patent application Serial No. 09/751,392, now U.S. Patent No. 6,647,108, from which the present application claims priority.

Addressing the outstanding rejection of claims 1-9 and 20 under 35 U.S.C. §103(a) as being unpatentable over Bauer in view of Burg, the Examiner has taken the position that:

*Regarding claims 1, 5, 7-8 and 20, Bauer teaches a method of controlling a telecommunications network (see abstract) comprising the steps of: recognizing a condition (reads on alerting the subscriber that the line is busy, see col. 1, lines 65-67); initiating a call including a special calling party number (this reads on the subscriber entering an interrupt code, see col. 2, lines 1-2); detecting an AIN trigger when said call reaches a point in the telecommunications network (this reads on receiving the signal to indicated the arrival of incoming call, see col. 2, lines 8-11).*

Applicant respectfully disagrees with the Examiner’s characterization of the description provided by Bauer. For example, in the portion cited by the Examiner, Bauer states:

ATTORNEY DOCKET NO. 01-VE22.40 CON1  
(PATENT)

...[i]f the line is busy, the subscriber may enter an interrupt code that authorizes interruption of a call on the subscriber's own line. The interrupt code entered by the subscriber is received in the network which then verifies the code to determine whether the code entered corresponds to that associated with the subscriber's line.... (Bauer, col. 1, line 67 – col. 2, line 2.)

Bauer describes the interrupt code, not as a special calling party number as required by the claims, but as some group of characters and/or digits:

...The code itself may contain a header, say the characters \*7\* or some other character/digit or group of characters and/or digits, to signal the provider of the interrupt service of the subscriber's desire to interrupt a call on the subscriber's line. Alternatively, the subscriber may enter an interrupt command, comprised of a character/digit or group of characters and/or digits, followed by the interrupt code comprised of a group of characters and/or digits.... (Bauer, col. 3, lines 47 – 55.)

Thus, Bauer suggests using special characters, such as the "star" ("\*") key to signal that some special feature is requested.

In contrast, the claims of the present application use a telephone number as might be contained within a call set-up message to exchange information:

Claim 1 A method of controlling a telecommunications network comprising the steps of:  
recognizing a condition;  
initiating a first call including transmitting a call set-up message indicating a special calling party number;  
detecting an AIN trigger when said call reaches a point in the telecommunications network;  
transmitting a query message to a control point in the telecommunications network, said query message including said special calling party number;  
receiving said query message at said control point ; and  
storing, in response to said special calling party number, an indicator of said condition in response to receiving said special calling party number. (Emphasis added.)

Similar limitations are present in claims 10, 18 and 20:

10. A telecommunications system comprising:

a switched telephone network including a plurality of a service

ATTORNEY DOCKET NO. 01-VE22.40 CON1  
(PATENT)

switching points (SSPs) (i) interconnected by a plurality of trunks for carrying customer traffic and (ii) connected to a private operations data network for communicating control messages;

a database storing call processing records associated with respective subscribers of said switched telephone network, said database responsive to a special calling party number contained in a query message generated by one of said SSPs in response to a call to one of said subscribers to set a service status flag of a call processing record associated with said one of said subscribers. (Emphasis added.)

18. A switched telephone network comprising:

(i) a plurality of a service switching points (SSPs) configurable to provision triggers associated with telephone lines of designated ones of subscribers served by respective ones of said SSPs and responsive to incoming calls to respective ones of said designated subscribers to initiate a query message including a special calling party number associated with one of said incoming calls;

(ii) a plurality of trunks for carrying customer traffic between said SSPs;

(iii) at least one signaling transfer point (STP) connected to receive said query message from said SSPs;

(iv) a private operations data network connecting said SSPs to said at least one signaling transfer point (STP); and

(v) a service control point (SCP) connected to said at least one STP for receiving said query message and storing service status indicators associated with each of said designated subscribers and responsive to said special calling party number to set one of said service status indicators associated with one of said designated subscribers, said SCP responsive to said service status indicators for supplying call handling instructions in response to a subsequent query message from said SSPs. (Emphasis added.)

20. A method of processing an incoming call from a calling party to a telephone line serving a called party, comprising the steps of:

identifying a connection status of said telephone line of said called party to a data network including

(a) initiating a call to said called party using a call set-up message indicating a special calling party number,

(b) initiating a query message to a remote control point, said query

ATTORNEY DOCKET NO. 01-VE22.40 CON1  
(PATENT)

message including said special calling party number, and

(c) in response to said special calling party number, setting a status indicator of said telephone line at said remote control point; and

processing the incoming call in response to said status indicator.  
(Emphasis added.)

Not only does Bauer fail to teach use of any form of telephone or calling party number as required by the claims, but teaches away from such a format. Instead Bauer suggests the use of some special character, such as the star, as is often used to signal some form of special processing request.

The Burg reference similarly fails to describe or suggest use of a special calling party number alone or as part of either a call set-up or query message. On the contrary, the portion of the Burg disclosure cited by the Examiner (i.e., col. 5, lines 4-8) refers to a "digital" message:

If the called party's computer is logged into the network service provider, as stated previously, the telephony gateway will notify the called party that they have received an incoming call and will provide the called party with options as to how they would like to respond to the incoming call. Telephony gateway 156 will transmit a digital data message to the called party's computer 100 by sending the message over LAN 152 to modem 154 for transmission over transmission lines 145 and 130 to the called party's computer 100. (Burg, col. 4, line 66 – col. 5, line 8.)

As Burg is not directed to providing signaling using facilities of the PSTN, it is understandable that there is no mention or suggestion to use a special calling party number, i.e., data already accommodated by existing PSTN message protocols, to transmit information.

The Examiner's analysis is further flawed in equating detection of an AIN trigger to "receiving the signal to indicate the arrival of incoming call." (Office Action, page 2.) AIN triggers are well known to those skilled in the telephony arts and are not general signals that might be indicative of an incoming call. Instead, triggers initiate queries to an AIN database (e.g., Service Connection Point or SCP) where service logic is housed. In general, there are three categories of AIN triggers: (i) Subscribed triggers used on individual unbundled line ports; (ii) Group-based triggers assigned to specific software-defined groups of line ports having common characteristics such as routing patterns; and (iii) Office-based triggers affecting all calls

ATTORNEY DOCKET NO. 01-VE22.40 CON1  
(PATENT)

originating from the office associated with a public dialing plan. Trigger descriptions can be found in Bellcore document GR-1298-CORE, Issue 3, July 1995, Revision 1, November 1996 titled AINGR: Switching Systems, SSP Processing of Triggers and Requested Events, General Procedures. Patentable weight must be given to applicant's recitation of an AIN trigger, a feature that is patentably distinguishable over the signal mentioned by Bauer.

Thus, for the reasons presented above, the rejection of claims 1-9 and 20 is respectfully traversed and reconsideration and withdrawal thereof are requested.

The Examiner has rejected claims 10-19 as being unpatentable over Shtivelman in view of Bauer. Again, the Examiner relies on Bauer for teaching a special calling party number. Accordingly, this rejection is improper for the reasons presented above in connection with claims 1-9 and 20; neither Bauer nor Shtivelman describe or suggest use of a special calling party number. To the contrary, to the extent the Examiner now applies Shtivelman, that disclosure teaches away from use of applicant's claimed feature, instead describing that:

In one embodiment of the present invention, when a client places a call to log onto the Internet via his Internet Service Provider (ISP), a pre-defined forwarding number is programmed into telephony switch 151 using the Centrex functions of the switch, and the client's call-waiting services (if any) are temporarily discontinued. The necessary commands may be added to the dialing string, for example, that is used by the client's computer to dial-up the ISP. Centrex functions are software functions that are part of a normal telephone service such as call waiting, call forwarding, conference calling, and the like.

The number to which incoming calls for telephone 111 are forwarded is a destination number associated with a telephony switch 141. While the client is connected to the ISP, all incoming calls that are designated for the client at station 110 (telephone 111) are routed via line 154 to switch 141. (Shtivelman at col. 4, lines 47 - 63.)

Note that, in this case, all calls are forwarded whether or not the client is or is not actually connected to the Internet. Again, there is no mention of using a special calling party number to provide status information so that incoming calls may be handled accordingly.

Shtivelman does describe automatic implementation of call forwarding by initiating "a call to the remote access forwarding number of the client, thereby directing forwarding of incoming calls for the client to a number at switch 141." (Shtivelman at col. 6, lines 47 - 50).

ATTORNEY DOCKET NO. 01-VE22.40 CON1  
(PATENT)

The disclosure also describes that:

In another embodiment of the invention switch 151 is connected to CTI-server 142 via a CTI link 153, (FIG. 1) and T-Server 142 may thereby monitor and direct activities of switch 151 directly. In this embodiment, when the client at station 110 logs on to ISP 130 via modem bank 120, T-Server 142 recognizes the activity, and sets up call forwarding of incoming PSTN calls for that client to switch 141, where such calls are converted and directed via the Internet as described above for the first two embodiments. (Shtivelman, col. 7, lines 31 – 39 (emphasis added).)

However, this interaction is in stark contrast to the elements recited by the claims of the present application. Shtivelman uses CTI link 153 to provide instructions to switch 151, not the AIN, or even a special calling party number.

Thus, for the reasons presented above, the rejection of claims 10 – 19 is believed to be overcome and reconsideration and withdrawal of the outstanding rejection are respectfully requested.

In addition to the reasons presented for patentability of independent claims 1, 10, 18 and 20, each of the dependent claims include additional subject matter not found in the art of record in the claimed combinations and are believed to be allowable independent of their respective base claims.

The rejections under 35 U.S.C. §103(a) are further traversed for lack of motivation for combining the references as asserted and applied by the Examiner. It is insufficient that the Examiner in hindsight recognize an advantage of making the asserted combinations wherein any such suggestion is absent from the prior art.

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In *re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990). Although a prior art device “may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so.” (916 F.2d at 682, 16 U.S.P.Q.2d at 1432.). See also In *re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992) (flexible landscape edging device

ATTORNEY DOCKET NO. 01-VE22.40 CON1  
(PATENT)

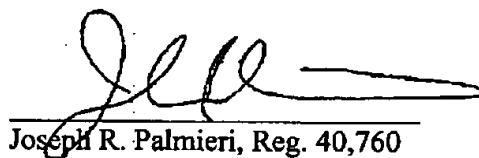
which is conformable to a ground surface of varying slope not suggested by combination of prior art references).

It is well established that, even if all aspects of the claimed invention were individually known in the art, such is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). It is, therefore, incumbent upon the Examiner to provide some suggestion of the desirability of doing what the inventor has done in the Examiner's formulation, imposition and maintenance of a rejection under 35 U.S.C. 103(a). "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985).

In summary, claims 1 – 26 are now considered to be in condition for allowance. Favorable reconsideration of the application, as amended, and an early notification of allowance are respectfully requested.

Payment for the addition of new dependent claims 21 – 26 accompanies this Amendment. If any other or additional fee is due, please charge our Deposit Account No. 07-2347 from which the undersigned is authorized to draw and please credit any excess fees to such deposit account.

Respectfully submitted,

  
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